

ARTICLE 1

Zoning Code Applicability

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CHAPTER 17.100 PURPOSE AND EFFECT OF ZONING CODE

Sections:

- 17.100.005 - Title
- 17.100.010 - Purpose
- 17.100.015 - Authority and Relationship to General Plan
- 17.100.020 - Applicability of the Zoning Code
- 17.100.025 - Responsibility for Administration
- 17.100.030 - Partial Invalidation of Zoning Code
- 17.100.035 - Procedural Requirements

17.100.005 Title

This Title is and shall be cited as the Westminster Zoning Code, Title 17 of the Westminster Municipal Code, hereafter referred to as "this Title."

17.100.010 Purpose

This Title carries out the policies of the Westminster General Plan (hereafter referred to as the "General Plan") by classifying and regulating the uses of land and structures within the City. This Title is adopted to protect and promote the public health, safety, and general welfare of residents and businesses in the City of Westminster (hereafter referred to as the "City"). More specifically, it is the purpose of this Title to:

- A.** Provide standards that will guide the orderly growth and development of the City;
- B.** Preserve and protect the integrity and character of the City's residential neighborhoods;
- C.** Maintain vital areas for business activities that serve the community and protect the quality of life;
- D.** Require thoughtful planning and design that enhances the visual character of the City and avoids conflicts between land uses;
- E.** Create a comprehensive and stable pattern of land uses for which public services and infrastructure can be efficiently and adequately planned;
- F.** Ensure that property within the City is well maintained by requiring each owner, occupant, or other person in charge of any property to keep it in good repair and in compliance with the provisions of this Title; and
- G.** Develop new zoning standards and criteria where necessary to achieve consistency with the General Plan.

17.100.015 Authority and Relationship to General Plan

- A. Authority.** This Title is enacted based on the authority vested in the City by the Westminster Municipal Code (hereafter referred to as “WMC”) and by the State of California, including but not limited to: the State Constitution; the State Planning and Zoning Law (California Government Code § 65800 et seq.); the California Environmental Quality Act (California Public Resources Code, Division 13, § 21000 et seq.); the California Health and Safety Code; and other applicable statutory provisions.
- B. General Plan Consistency.** The General Plan is the document that establishes the broad goals and policies for all future development within the City. This Title is the primary tool used to implement the goals, objectives, and policies of the General Plan. The City Council intends that this Title be consistent with the General Plan, and that any land use or development approved in compliance with this Title also be consistent with the General Plan.

17.100.020 Applicability of the Zoning Code

This Title applies to all land uses, structures, subdivisions, and development within the City:

- A. New Land Uses or Structures.** It shall be unlawful, and a violation of this Title, for any person to establish or construct any land use or structure, except in compliance with the requirements of this Title.
- B. Existing Land Uses or Structures.** The requirements of this Title are not retroactive in their effect on land uses or structures lawfully established before the effective date of this Title or any applicable amendment. Existing land uses or structures are lawful and not in violation of the WMC only when operated and maintained in compliance with all applicable provisions of this Title. Any alteration, expansion, or modification of existing land uses or structures shall comply with all provisions of this Title.
- C. Issuance of Building or Grading Permits.** The City may issue building, grading, or other construction permits only when:
1. The proposed land use and/or structure satisfies the requirements of Section 17.100.020.A., *New Land Uses or Structures*, and all other applicable statutes, ordinances, rules, and regulations; and
 2. The site was subdivided in compliance with all applicable requirements of Title 16, *Subdivisions*, of the WMC or the County of Orange.
- D. Subdivision of Land.** Any subdivision of land proposed within the City after the effective date of this Title shall be consistent with Title 16, *Subdivisions*, of the WMC.
- E. Effect of Zoning Code Amendments on Projects in Progress.** All land use permit applications that have been determined by the Planning Division to be complete before the effective date of this Title, or any amendment to this Title, will be processed in compliance with the requirements in effect when the application was accepted as complete.

- F. Other Permits and Requirements.** Nothing in this Title eliminates the need for obtaining any other permits required by the City, or any permit or approval required by other provisions of the WMC or the laws, rules, or regulations of any City department, or any county, regional, state, or federal agency.
- G. Conflicting Permits and Licenses.** All permits shall be issued by the City in compliance with the provisions of this Title after the effective date of this Title or any amendment to this Title. Any permit, excluding business tax certificates, issued in conflict with this Title shall be void.

17.100.025 Responsibility for Administration

This Title shall be administered by the Mayor and the City Council (hereafter referred to as the "Council"), Planning Commission (hereafter referred to as the "Commission"), Design Review Board (hereafter referred to as the "Board"), Community Development Director or his/her designee (hereafter referred to as the "Director"), and Planning Division (hereafter referred to as the "Division") as provided in Chapter 17.600, *Administrative Responsibility*.

17.100.030 Partial Invalidation of Zoning Code

If any article, section, subsection, paragraph, subparagraph, sentence, clause, phrase, term, or portion of this Title is for any reason held to be invalid, unconstitutional, or unenforceable, these decisions shall not affect the validity of the remaining portions of this Title. This Title and each portion thereof would have been adopted irrespective of the fact that one or more portions of this Title may be declared invalid, unconstitutional, or unenforceable.

17.100.035 Procedural Requirements

Failure to follow the procedural requirements contained within this Title shall not invalidate City actions taken in the absence of a clear showing of intent.

Purpose and Effect of Zoning Code

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CHAPTER 17.110 LAND USE AND DEVELOPMENT APPROVAL REQUIREMENTS

Sections:

- 17.110.005 - Requirements for Land Uses and Development
- 17.110.010 - Exemptions from Land Use Permit Requirements
- 17.110.015 - Temporary Uses
- 17.110.020 - Additional Permits or Approvals
- 17.110.025 - Conflicting Approvals

17.110.005 Requirements for Land Uses and Development

No land use or structure shall be established, constructed, reconstructed, altered, allowed, or replaced unless that land use or structure complies with the following requirements:

- A. Permitted Use.** The land use shall be identified by Chapters 17.210, Residential Zoning Districts; 17.220, Commercial Zoning Districts; 17.230, Industrial Zoning Districts; 17.240, Special Purpose Zoning Districts; and 17.25, Overlay Zones, as being permitted in the zoning district applicable to the subject site.
- B. Permit Requirements.** Any land use permit required by this Title shall be obtained prior to the proposed use being constructed or otherwise established or put into operation, unless the proposed use is listed in Section 17.110.010, Exemptions from Land Use Permit Requirements. The land use permit requirements of this Title are established by Chapters 17.210, Residential Zoning Districts; 17.220, Commercial Zoning Districts; 17.230, Industrial Zoning Districts; 17.240, Special Purpose Zoning Districts; and 17.250, Overlay Zones.
- C. Development Standards.** Every land use and structure shall comply with all applicable requirements of this Title, including the development standards outlined in Article 2, Zoning Districts, Permitted Land Uses, and Zone-Specific Standards; and the provisions outlined in Article 3, Site Planning and General Development Standards, and Article 4, Standards for Specific Land Uses and Accessory Uses. In addition, every land use and structure shall comply with all applicable requirements of any adopted Development Agreement, Comprehensive Plan, or Specific Plan.
- D. Conditions of Approval.** Every land use and structure shall comply with all applicable conditions imposed by the City as part of an approved land use permit.
- E. Development Agreement Provisions.** Every land use and structure shall comply with any applicable agreement related to the site that has been approved by the City or Redevelopment Agency, including but not limited to, an Owner-Participation Agreement, a Disposition and Development Agreement, or a Development Agreement.

- F. Federal, State or Local Law.** No land, building, structure or premises shall be used, designed, moved, altered, added to, enlarged, or intended to be used for any purpose or in any manner other than a use listed in this Title, or amendments thereto, as permitted in the district in which such land, building, structure or premises is located; and no land, building, structure, or premises shall be permitted to be used for any purpose prohibited by federal, state, or local law or that would be in conflict with the Constitution and laws of California or the United States.

17.110.010 Exemptions from Land Use Permit Requirements

The land use permit requirements of this Title do not apply to any activity, land use, or structure identified by this Section.

- A. Exempt Activities, Land Uses, and Structures.** The following activities, land uses, and structures are exempt from the land use permit requirements of this Title when in compliance with all applicable development standards of Article 2, Article 3, and Article 4.
1. ***Decks, paths, and driveways.*** Any deck, platform, or on-site path not required by the WMC to obtain a building or grading permit, not more than 24 inches above natural grade, and not above any basement or story.
 2. ***Governmental facilities.*** Any facility or operation regulated by the City, state, or federal government on land owned or leased by a governmental agency, to the extent that exemption is required by state or federal law or the City.
 3. ***Interior remodeling.*** Any interior alteration that does not increase the number of rooms, bedrooms, or the gross floor area within a structure, or change or intensify the permitted use of that structure.
 4. ***Portable spas, hot tubs, and fish ponds.*** Any portable spa, hot tub, fish pond, or similar installation as determined by the Director that does not exceed: 120 square feet in total area, including related equipment; 2,000 gallons of water; and 3 feet in depth. These facilities shall comply with the applicable setback requirements outlined in Table 2-3, *Residential Zoning District Standards*, and/or Section 17.300.020, *Setback Regulations and Exceptions*.
 5. ***Repair and maintenance.*** Repair and maintenance to structures other than a designated historic structure, if the work does not result in any change in the approved land use of the site or structure or the addition to, enlargement, or expansion of the structure, and if any exterior repair employs the same or similar materials and design as the original structure.
 6. ***Small portable residential accessory structure.*** Any portable storage shed, play equipment, or other small structure, in any residential zoning district and up to 120 square feet in total area, that is exempt from Building Permit Requirements and is in compliance with the WMC and California Building Code. These structures shall comply with the setback requirements set forth in Article 2 for the applicable zoning district and/or the requirements outlined in Section 17.400.130, *Residential Uses: Accessory Structures*.

7. ***Solar collectors.*** The addition of solar collection systems to the roof or sides of an existing structure, provided the collectors comply with the height limit requirement of the applicable zoning district.
8. ***Utilities.*** The construction, alteration, or maintenance by a public utility or agency of any underground or overhead utilities shall be permitted in any zoning district. These include water, gas, electric, or telecommunication facilities (excluding wireless communications facilities) or supply or disposal systems including wires, mains, drains, sewers, pipes, conduits, cables, fire-alarm boxes, police call boxes, utility boxes, traffic signals, and hydrants, but not including any structures.

17.110.015 Temporary Uses

Requirements for establishing a temporary use (e.g., seasonal sales lot, construction yards, temporary structures) are set forth in Chapter 17.540, *Temporary Use, Temporary Event Permits*, and for special events are set forth in Chapter 9.61 of Title 9 of the WMC.

17.110.020 Additional Permits or Approvals

An allowed land use that is exempt from or has been granted a land use permit may still be required to obtain other permits before the use is constructed or otherwise established and put into operation. Nothing in this Chapter shall eliminate the need to obtain any permit or approval required by:

- A. Any other provision of the WMC, as may be appropriate, including: subdivision approval, building, grading, construction, or encroachment permits; a business tax certificate or permit to operate. .
- B. Any special district or regional, state, or federal agency.

All necessary permits shall be obtained before starting work or expanding or establishing a land use.

17.110.025 Conflicting Approvals

All City departments, officials, or employees vested with the authority or duty to issue licenses, zoning approvals, or permits where required by law shall conform to the provisions of this Title. A license or zoning approval for uses, structures, or purposes in conflict with the provisions of this Title shall not be issued. Any license, zoning approval, or permit issued in conflict with the provisions of this Title shall be deemed void.

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CHAPTER 17.120 INTERPRETATION OF ZONING CODE PROVISIONS

Sections:

- 17.120.005 - Purpose
- 17.120.010 - Rules of Interpretation
- 17.120.015 - Procedures for Interpretations

17.120.005 Purpose

This Chapter provides rules for resolving questions about the meaning or applicability of any requirement of this Title. The rules provided in this Chapter are intended to ensure the consistent interpretation and application of the provisions of this Title.

17.120.010 Rules of Interpretation

A. Authority. The Director shall have the responsibility and authority to interpret the requirements of this Title.

B. Language

1. **Terminology.** When used in this Title, the words "shall," "must," "will," "is to," and "are to" are always mandatory. "Should" is not mandatory but is strongly recommended, and "may" is permissive. The present tense includes the past and future tenses, and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless the natural construction of the word indicates otherwise. The words "includes" and "including" shall mean "including but not limited to." The words "buildings" and "structures" are referred to as "structures."
2. **Common word use.** If not specifically defined herein, or the context otherwise requires, then words of common use shall be defined as found in standard dictionaries.
3. **Number of days.** Whenever a number of days is specified in this Title, or in any permit, condition of approval, or notice issued or given as provided in this Title, the number of days shall be construed as calendar days unless otherwise specified. Time limits will extend to the following working day where the last of the specified number of days falls on a weekend, a City-recognized holiday, or a day the City is not open for business.
4. **Minimum requirements.** When any regulation of this Title is being interpreted and applied, all provisions shall be considered to be minimum requirements, unless stated otherwise, such as for height limits and site coverage requirements for structures and signs, where the numbers and size of signs allowed are maximums, not minimums.

5. **State law requirements.** Where this Title references provisions of state law (e.g., The California Government Code, Subdivision Map Act, Public Resources Code), the reference shall be construed to be the current state law provisions, as amended from time to time.
- C. **Calculations/Rounding.** Wherever this Title requires calculations to determine applicable requirements, any fractional results of the calculations shall be rounded to the next highest whole number when the fraction is 0.5 or higher, and to the next lowest whole number when the fraction is less than 0.5 except as stipulated for residential parking, Section 17.320.020 (B). In the case of the number of dwelling units, numerical quantities that are fraction of whole numbers shall be rounded to the next lowest whole number unless the fractions is 0.95 or higher, in which case the number may be rounded to the next highest whole number.
- D. **Zoning Map Boundaries.** If there is uncertainty about the location of any zoning district boundary shown on the official zoning map, the following rules are to be used in resolving the uncertainty:
 1. Where district boundaries approximately follow lot, alley, or street lines, the lot lines and street and alley centerlines shall be construed as the district boundaries;
 2. If a district boundary divides a parcel and the boundary line location is not specified by distances printed on the zoning map, the location of the boundary will be determined by the scale provided on the zoning map; and
 3. Where a public street or alley, railroad, or utility right-of-way is officially vacated or abandoned, the property that was formerly in the right-of-way will be included within the zoning district of the adjoining properties on either side of the centerline.
- E. **Permitted Land Uses.** If a proposed use of land is not specifically listed in Chapters 17.210, Residential Zoning Districts; 17.220, Commercial Zoning Districts; 17.230, *Industrial Zoning Districts*; 17.240, *Special Purpose Zoning Districts*; and 17.250, *Overlay Zones*, the use shall not be allowed, except as follows.
 1. **Similar uses allowed.** The Director may determine that a proposed use not listed in Article 2 is permitted if all of the following findings are made:
 - a. The proposed use is consistent with the goals, objectives, and policies of the General Plan and any applicable Specific Plan; and
 - b. The characteristics of and activities associated with the proposed use are equivalent to those of one or more of the permitted uses listed in the applicable zoning district, and are not more destructive, detrimental, or intensive than the uses listed in the district; and
 - c. The proposed use will meet the purpose and intent of the zoning district that is applicable to the site.

2. ***Applicable standards and permit requirements.*** When the Director determines that a proposed use not listed in Article 2 is equivalent to a listed use of the applicable zoning district, the proposed use will be treated in the same manner as the listed use in determining where it is allowed, what permits are required, and what other standards and requirements of this Title are applicable.
3. ***Planning Commission determination.*** The Director may forward questions about equivalent uses directly to the Planning Commission in conformance with Section 17.500.010.

F. Conflicting Requirements:

1. ***Municipal Code provisions.*** If conflicts occur between the requirements of this Title and other regulations of the City, then the most restrictive shall govern.
2. ***Zoning Code provisions.*** If conflicts occur between the provisions within this Title, the most restrictive requirement shall govern; except in the case of any conflict between the provisions outlined in Articles 2 and 3, the provisions of Article 2 shall govern.
3. ***Development Agreements or Specific Plans.*** When conflicts occur between the requirements of this Title and standards adopted as part of any Development Agreement or Specific Plan, the requirements of the Development Agreement or Specific Plan shall govern.
4. ***Private Agreements.*** This Title applies to all land uses and development regardless of whether it imposes a greater or lesser restriction on the development or use of structures or land than a private agreement or restriction and without affecting the applicability of any agreement or restriction. The City shall not enforce any covenant or agreement unless the City is a party to the covenant or agreement.
5. ***Interpretation.*** In interpreting and applying the provisions of this Title, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not the intent of this Title to interfere with, abrogate or annul any easements, covenants, or other agreements between parties; however, the provisions of this Title shall govern where this Title imposes a greater restriction on the use of buildings or premises or on building heights, or requires larger space than is imposed or required by other ordinances, rules, or regulations, or by easements, covenants or agreements. It is also not the intent of this Title to permit or allow any use of buildings or premises that would be in violation of federal, state, or local law or would be in conflict with the Constitution and laws of California or the United States.

17.120.015 Procedures for Interpretation

At the written request of any interested person, or at the Director's discretion, the Director may determine the meaning or applicability of any requirement of this Title and may issue an official interpretation.

- A. Request for Interpretation.** A request shall be written that specifically states the provision(s) in question and provides any information to assist in the review.

B. Record of Interpretation. Official interpretations shall be:

1. In writing, and shall quote the provision(s) of this Title being interpreted, and explain the meaning or applicability in the particular or general circumstances that caused the need for interpretation; and
2. Distributed to the Council, Commission, City Manager, City Attorney, City Clerk, and all pertinent staff.

Any provision(s) of this Title determined by the Director to need refinement or revision should be corrected by amending this Title as soon as is practical. Until amendments can occur, the Director will maintain a complete record of all official interpretations available for public review, indexed by the number of the section(s) being interpreted.

C. Appeals and Referral. Any interpretation of this Title by the Director may be appealed to the Commission as provided by Section 17.640.025. The Director may also refer any interpretation to the Commission for a determination.